PLANNING AND ZONING COMMISSION MINUTES PUBLIC HEARING / GENERAL MEETING JANUARY 5, 2016

Place: Room 206, Town Hall TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Cunningham, Olvany, Voigt

STAFF ATTENDING: Ginsberg

RECORDER: Syat

Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Land Filling & Regrading Application #369, Luciano Lombardi, Jr., 8 West Elm Street. Proposing to regrade back yard, construct associated retaining wall, and to perform related site development activities. The subject property is located on the south side of West Elm Street approximately 200 feet west of its intersection with Noroton Avenue and is shown on Assessor's Map #21 as Lot #167 & #168 in the R-1/3 Zone. PUBLIC HEARING OPENED 11/24/2015; DEADLINE TO CLOSE PUBLIC HEARING IS 1/5/2016 UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.

Mr. Ginsberg noted that revised plans are dated 12-27-15 from HK Associates. They show the additional details of the plans as well as the Commission's requested Zoning Chart. Mr. Mario Lombardi explained that the retaining wall will be done before the rest of the project. Mrs. Cameron mentioned that it would important not to compress the soils on the property. Mr. Mike Medeiros of 12 West Elm Street came to the podium and reviewed the revised plans. He noted that his biggest concern is water and drainage. Mr. Lombardi responded that he will place a weephole in the proposed retaining wall if the Planning & Zoning Commission says to include one. Mr. Medeiros said he does not want a weephole for fear that water will be spilling on to his property. Mrs. Cameron believed that it would be appropriate to defer the question of whether a weephole in a retaining wall is appropriate, to Assistant Public Works Director Darren Oustafine, who is a Professional Engineer and can weigh in on the weephole issue. Mr. Cunningham noted the need to minimize runoff and any chance of water backing up onto the property.

Mr. Olvany noted that the submitted Zoning Chart needs a surveyor or an architect or engineer to stamp or seal it. Mr. Lombardi noted that while he hand wrote the Zoning Chart, it was in consultation with his engineer. In response to a question, Mr. Lombardi responded that the proposed residence is a three bedroom house with three bathrooms and will be approximately 3,000 square feet. Mr. Lombardi noted that the split rail fence has been added on top of the retaining wall. Mr. Medeiros said that the split rail fence is okay with him and he is satisfied with the proposed fence.

There were no other comments from the general public or Commission regarding the application. The following motion was made: That the Planning & Zoning Commission close the public

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hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

At about 8:15pm, Chairman Cameron then read the next agenda item:

Business Site Plan Application #186-D/Special Permit, Bar Nala, LLC, 800 Boston Post Road. Proposal to establish a personal service use in the first floor space formerly occupied by Patriot Bank. The subject property is located on the southeast corner formed by the intersection of Boston Post Road and Sedgwick Avenue, and is shown on Assessor's Map #71 as Lots #1, #2, and #17 in the Central Business District (CBD) Zone.

Attorney Wilder Gleason was present on behalf of Bar Nala, LLC. They propose to take a 2,500 square foot space in the first floor of the building at 800 Boston Post Road, which was formerly occupied by Patriot Bank. They will have some storage space in the basement which will contain a washer and dryer. They will also have accessory retail sales of clothing items in the first floor space. Attorney Gleason explained that the maximum class size will be 28, including teachers. The windows on Boston Post Road will not be blocked.

Attorney Gleason said that they propose a maximum class size of 20 (including the teachers) during lunch time, which is from 12:15-2pm, Monday – Friday. He then referred to his submitted letter which is part of the record. Attorney Gleason noted that it would be important to have a 15 minute break between classes Monday – Friday to minimize the number of cars in the parking lot all at once. It would not be as important to have the 15 minute break between classes on weekends.

Mrs. Trepanier and Mrs. Meehan, the proposed operators of Bar Nala, then spoke. They said that some customers may stay after class but not all of them. They explained that this is a Barre Method franchise.

Mr. Olvany noted that there is now 2,850 square feet left on the third floor and the building is a total of 25,000 square feet with 100 shared parking spaces. Mrs. Meehan confirmed that the busiest classes are in the morning. Mr. Voigt said that he has concerns about overlap between classes and wondered whether 15 minutes will be enough. Mrs. Trepanier responded that the early morning classes will likely have more people showering than the classes later in the day. Attorney Gleason then asked the Commission for quick approval so his clients can proceed with the tenant fit-up and establishing the business. Mrs. Cameron responded that the Commission will aim to have a draft Resolution ready for review and action on January 26, 2016.

There were no other questions from the Commission members and no questions from the general public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Cunningham, seconded by Mr. Olvany and unanimously approved.

At about 8:25pm, Chairman Cameron then read the next agenda item:

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GENERAL MEETING

Informal discussion with David Genovese regarding 26 East Lane.

David Genovese of Baywater Properties explained that he is currently working on a proposal for his downtown redevelopment project for the Corbin block. He noted that the Darien Inclusionary Zoning Regulations requires that at least 12% of the residential units be designated as affordable units. He said therefore, if he designs 80 residential units, that would require 10 affordable units. He explained that they intend to sell the on-site units in the Corbin block as condominiums. He noted that there is now a big need for housing for adults with special needs. He said that the Cottage on Edgerton Street is now a six person group home. Mr. Genovese explained that 26 East Lane is a property which has had a long time nursery school. From this property, one can walk to a bus stop on Boston Post Road. His proposal would be to construct two 4,000 sq.ft. houses, two stories each. These would consist of a total of twelve 450 +/- square foot efficiency apartments with three dwelling units on each floor. He then distributed an email from Michael Santoro of the State Department of Housing. Attorney Robert Maslan then explained the Moratorium Point System to the Commission members. Mr. Olvany then asked whether the income of the parent would be considered to determine whether someone would income qualify for these units. Attorney Maslan responded that it would be the income of the resident and because of that, some of the units could be limited to a maximum of those earning 40% of State Median Income (SMI). There is no connection to the parents. Attorney Maslan explained that these would not be age restricted units.

Mr. Genovese explained that the advantage of this location is one can walk to the bus stop on Boston Post Road and a nearby grocery store – Trader Joe's. He explained that they have started meeting with neighbors in this area and want to respect the neighborhood. Mrs. Cameron asked whether the rents would allow for continued maintenance of the property and the buildings. Mr. Genovese said that this is one consideration. He also noted that one of the reasons to come before the Commission this evening is a determination whether they can "bank" inclusionary credits. Mr. Cunningham confirmed that that is a legal question that needs to be considered. Mrs. Cameron asked whether there would be a need for an on-site resident advisor.

Ms. Katie Banzaf, the Executive Director of STAR, explained that there are now 12 group homes in the area. STAR would manage the placement of residents here. Both Mr. Olvany and Mrs. Cameron said that this proposal seems to be a good idea and fills a need. Mr. Cunningham then asked where the proposed buildings are relative to the building envelope. Architect Dan Conlon then reviewed the sketches he had done with the Commission and noted that all of the proposed buildings would meet the 15 foot setback lines for the R-1/3 Zone.

Mr. Genovese said that of the 6 residential units he constructed on the upper floors of 1020 Post Road, two of them were set aside for Town residents on a 10 year commitment. He said that so far there has been a librarian, a teacher and a Town Hall employee who have taken advantage of those informal restrictions. Mr. Cunningham explained that the Commission has traditionally had a relationship between the size of the units in the market rate and the affordable units and Mrs. Cameron confirmed that. Mr. Genovese noted that one option would be to do more smaller units than larger units. Mrs. Cameron explained that she likes having the diversity of different types of

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affordable housing throughout the Town. Mr. Genovese said the key component here to qualify for moratorium points is having the kitchenette in each of the units. Mr. Voigt mentioned that the parking requirements would be lighter than usual, but there would still be visitors and staff.

Mrs. Cameron then opened this matter up to some brief, public comment to allow Mr. Genovese to get some feedback from neighbors. Ms. Laurie Rawley said that, in her opinion, Old King's Highway North is dangerous to both walk on and cross. Mr. Mark Horenzo said that there is now a sight line problem on Old King's Highway North and believed that the proposed improvements are too much for that setting. Mr. Peter Gogolak explained that his son now lives at the Cottage. He mentioned that residents only leave the property when they are supervised by an adult. Mr. Ed Piorkowski of 152 Old King's Highway North said his concerns include the fact that he believes this is too institutional a use for this site and the density of 12 units an acre may be too great. He noted that there are wetlands on adjacent properties. Mr. Genovese confirmed that he did look at the subject property and confirmed that there are no wetlands on the subject property. He said that as part of this application, he would improve the drainage which now exists. Mr. Maslan said that they have discussed the proposal with Mr. Santoro at the Department of Housing. He added that each resident on site would have a managed plan and visitation, and visitation is minimal. Mr. Olvany asked whether this could be a mix of income and Mr. Maslan confirmed that it could be.

At about 9:15 P.M., Chairman Cameron then read the next agenda item:

<u>Clarification of Business Site Plan #289-A/Special Permit, Land Filling & Regrading Application #351-A, 1950 Post Road, LLC, 1950 Boston Post Road.</u>

Request for clarification regarding required parking. There is a discrepancy in the Adopted Resolution approving the site plan/special permit application. Paragraph 7 (bottom of page 3 and top of page 4) mentions a parking requirement of 2.5 spaces per apartment and a total of 38 spaces on the site. Section 606(d) requires one space per bedroom, and not 2.5 spaces per unit. The application narrative contains the parking calculation and concludes that 32 are required.

Mr. Ginsberg explained that an email had been received from Attorney Robert Maslan explaining the discrepancy in the Adopted Resolution. Mr. Ginsberg confirmed that Paragraph 7 should be changed to reflect the parking requirements of the NB Zone. Mr. Cunningham made a motion to modify Paragraph 7 of the Resolution as described. That motion was seconded by Mr. Olvany, and approved by a vote of 4 to 0. The Resolution will now note the correct parking calculation and that 32 on-site parking spaces are required.

Chairman Cameron then read the following agenda item:

Special Permit #66-I, Darien YMCA, 2420 Boston Post Road.

Review and action on 2016 Special Events Schedule.

Commission members then reviewed the Darien YMCA Special Events Schedule. Discussion ensured on whether in the future, the Commission should have the staff review these administratively or continue to have them placed on the Planning & Zoning Commission agenda. After some discussion, it was agreed to table that question for another evening. Mr. Voigt then made a motion to approve the 2016 Special Events Schedule. That motion was seconded by Mr. Olvany and approved by a vote of 4 to 0.

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Chairman Cameron then read the following agenda item:

Deliberations and possible decisions regarding:

<u>Land Filling & Regrading Application #370, Patricia Hemingway LLC, 23 Patricia Lane.</u>

Proposing to construct a replacement single-family residence and associated stormwater management, and perform related site development activities.

Mr. Olvany said he will be abstaining since he was not at the Public Hearing on this matter. Mr. Cunningham then made a motion to approve the Resolution as written. That motion was seconded by Mr. Voigt and approved by a vote of 3 to 0 with one abstention (Mr. Olvany). The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION ADOPTED RESOLUTION January 5, 2016

Application Number: Land Filling & Regrading Application #370

Street Address: 23 Patricia Lane Assessor's Map #43 Lot #73

Name and Address of Applicant & Mark Lebow

Applicant's Representative: William Seymour & Associates

170 Noroton Avenue Darien, CT 06820

Name and Address of & Patricia Hemingway, LLC

Property Owner: 115 Mason Street

Greenwich, CT 06830

Activity Being Applied For: Proposing to construct a replacement single-family residence with associated stormwater management, and perform related site development activities.

Property Location: The property is situated on the east side of Patricia Lane approximately 350 feet northeast from its southerly intersection with Dubois Street.

Zone: R-1/3

Date of Public Hearing: November 24, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 13 & 20, 2015 Newspaper: Darien News

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Date of Action: January 5, 2016 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News

January 15, 2016

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

- 1. The proposal is to construct a replacement single-family residence and associated stormwater management, and perform related site development activities. The proposed residence will be served by public water and sewer.
- 2. Mr. Mark Lebow of William Seymour & Associates was present on behalf of the applicant and submitted two letters of support. The applicant proposes to lower the grade in the front yard by about 1.2 feet for a new driveway. Overall, other on-site grading will generally range from 6-9 inches. They will be building a complying replacement residence. The prior residence was non-conforming relative to setbacks.
- 3. The Darien Zoning Board of Appeals approved this project as part of ZBA Calendar 51-2015. One of the ZBA conditions of approval in Calendar #51-2015 was that a row of eight foot high trees be planted along the north property line. That approval is hereby incorporated by reference.
- 4. Regarding stormwater management, the applicant proposes that there will be infiltrators in both the front and rear of the house. The on-site drainage patterns will be the same.
- 5. At the public hearing on this matter, neighbors noted their concerns regarding stormwater management; the need to include drainage maintenance; light restrictions; and natural screening/trees along the north property line. It was noted that a Stormwater Facilities Maintenance Plan has be prepared and submitted for the record.
- 6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000. It was noted that the installation of a solid wall at the edge

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of the fill will create a clear line of the maximum extent of development and activity, thus helping to protect and preserve the adjacent wetlands area as natural and undeveloped.

7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #370 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Filling, excavation, and regrading work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Site Development Plan 23 Patricia Lane, Plan prepared for Hemingway Construction, by McChord Engineering Associates, Inc., last revised 10-15-15, Drawing No. SE1.
 - Zoning Location and Topographic Survey 23 Patricia Lane prepared for Patricia Hemingway, LLC, by William W. Seymour & Associates, scale 1"=20' dated August 17, 2015.
 - New Residence 23 Patricia Lane, prepared for Hemingway Construction, by Pagliaro Bartels Sajda Architects, LLC, dated 2015 October 09, Sheets A0.00 through A2.00.
- B. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Site Development Plan" in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. A drainage maintenance plan for the proposed Cultec units shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Darien Land Records or with the Planning and Zoning Commission file on this matter. The maintenance plan shall require the property owner and all subsequent property owners of 23 Patricia Lane to maintain the drainage facilities pursuant to the maintenance plan.
- E. A related "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval <u>and</u> prior to any on-site filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the residence.
- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. It is critical that commencing throughout the redevelopment of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street.

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- G. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- H. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The construction of the replacement residence and associated driveway from Patricia Lane will require a Sewer Connection Permit and Street Opening Permit from the Darien Public Works Department.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- J. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (January 5, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days AND prior to the issuance of the Zoning and Building Permit for the new replacement residence in order to finalize this approval. Chairman Cameron then read the following agenda item:

Any Other Business (Requires two-thirds vote of Commission)

The Commission then made a motion to go in to "Other Business" to discuss one item:

Sites, 209 Long Neck Point Road

Mr. Ginsberg explained the proposal and believed that this would be appropriate to handle under "Other Business" since it is a proposed reduction of the construction work previously approved by the Planning & Zoning Commission and all work which is being changed is landward of the house except for a small portion on the porch. Attorney Wilder Gleason then distributed 11"x17" sheets showing in color the prior approval and comparing that to what is currently being proposed. He noted in the previous approval, the garage which as proposed, did not meet the 90 foot front yard setback so the applicant would have been required to combine his two building lots. He noted that the Commission cautioned against doing that, but did approve the garage with the condition that a mylar be filed in the Land Records combining the two lots. Mr. Gleason said that his client after reconsideration will modify the garage in order to meet the 90 foot setback so that he would not need to merge the two lots. He added that they have revised slightly the entry tower which will now be one story in height. There will also be internal changes to the kitchen addition. There will be no change to the exterior envelope near the water. Attorney Gleason reminded the Commission that there was no neighbor opposition or comments last time, and there were minor changes to the drainage. The generator and HVAC units will meet the setbacks. Mr. Olvany asked whether there

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was more filling and regrading proposed as part of this request. Attorney Gleason responded that a retaining wall is proposed and there is a proposed catch basin in the drive garage area. There is less impervious surface than the previously approved plan. He then read aloud from the Drainage Report.

Mr. Voigt then made a motion to approve the modified plans. That motion was seconded by Mr. Cunningham and approved by a vote of 3 to 0, with Mr. Olvany abstaining.

At 9:40 p.m., Chairman Cameron then read the next agenda item:

Proposed Amendments to the Darien Zoning Regulations (COZR #5-2015), Special Permit Application #153-D/Site Plan, Land Filling & Regrading Application #366, Atria Darien, 50 Ledge Road. Proposed zoning regulation amendments to Sections 664, 667 and 668 to: correct existing references; eliminate the distinction between ILF and ALF units; provide minimum and maximum size units; modify parking standards; and allow the Commission to waive or reduce setback or buffering requirements. Proposing to construct additions and alterations to the existing structure, modify the driveway, add on-site parking, and perform related site development activities. The subject property is located on the north side of Ledge Road, approximately 2,700 feet west of its intersection with Boston Post Road, and is shown on Assessor's Map #40 as Lot #43 in the Service Business (SB) Zone.

Mr. Olvany said that he watched the second public hearing on the DVD and read the minutes. Mr. Cunningham confirmed that he watched the first public hearing on DVD and also read the minutes.

Mrs. Cameron said she had one change to the suggested Regulation amendments, which is Section 668c. She noted that in the past there has been a 400 square foot minimum of units. She said that in this case, all of the proposed new units will exceed 400 square feet, and thus, her inclination was to leave the minimum unit size as 400 square feet.

Mr. Olvany asked why there is a need for a zoning regulation amendment. Mr. Ginsberg said that from a zoning enforcement standpoint, it is not possible for the Zoning Officer to determine which units are reserved or set aside for independent living units and which ones are assisted living units. Thus, a blended parking requirement is appropriate. Mr. Olvany disagreed. Mr. Olvany said that the request is for a town-wide zoning change. He said that a variance from the ZBA may be in order. Mr. Cunningham believes that intermingling is a model. Mr. Olvany noted that the Darien site has a higher rate of vehicle ownership than other properties.

Chairman Cameron then read the following agenda item:

Approval of Minutes

November 24, 2015 Public Hearing/General Meeting

Mrs. Cameron had one comment on page 32 of the minutes. Mr. Olvany noted that it is important that Mr. Orlando get a copy of the parking information to the Planning & Zoning Commission regarding 13 Grove Street. Mr. Cunningham made a motion to approve the minutes with the one amendment. That motion was seconded by Mr. Voigt and approved by a vote of 4 to 0.

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December 8, 2015 General Meeting

Mr. Olvany had a comment on page 4 of the minutes. Mr. Cunningham made a motion to approve the minutes with that one change. That motion was seconded by Mr. Voigt and approved by a vote of 3 to 0 with Mrs. Cameron abstaining since she was not at that meeting.

Discussion of Upcoming Schedule

Mr. Ginsberg outlined a schedule of upcoming meetings, including the January 12 meeting at the Mather Center to discuss Chapters 9-17 of the first draft of the Town Plan. The next meeting on the Town Plan after that will be February 9.

Project Status Update

Mr. Ginsberg updated the Commission on a number of ongoing projects. He explained that he had returned the performance bonds for Noroton Presbyterian Church and 5 Top O' Hill Road. A proposal for updating the land use board application fees are being prepared, and a proposal will be given to the RTM for their consideration in February or March. Darien Diner is almost done and expects to open in late January. The Commission then discussed its distinctive look. Mr. Ginsberg said that The Country Club of Darien will be hosting paddle tennis championships in March, and that request has been administratively approved with 2 or 3 new temporary courts with 30 foot lights. Mr. Ginsberg said that Mr. Kuryla of 9A Tokeneke Trail has requested to change his driveway from approved permeable pavers to regular asphalt, and that was administratively approved.

There being no further business, the meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Jeremy B. Ginsberg Planning & Zoning Director

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